



Serial No. 10/790,571

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
FLUX DRIVE, INC.

Serial No.: 10/790,571

Group Art Unit: 2834

Filed: March 1, 2004

Examiner: Dang D. Le

Title:
APPARATUS TO TRANSFER
TORQUE MAGNETICALLY

Date: Monday, June 5, 2006
US Express Mail Air Bill
EQ 314749137 US

REPLY TO OFFICE FINAL ACTION UNDER 37 C.F.R. §1.116

Commissioner for Patents
Mail Stop Amendment
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Final Office Action mailed on April 4, 2006, the Applicant hereby submits its response to said Final Office Action within two (2) months of the mailing date of said Office Action pursuant to MPEP 706.07(f), and the Applicant respectfully requests reconsideration of the above-identified application. In the most recent Patent Office Action mailed on April 4, 2006, the Examiner mentions, in his comments, two additional pieces of prior art in his comments, as a basis for 35 USC 103(a) rejections of various claims [JP 02-074146 (Masaki), US 3,113,229 (Jacobs)], beyond those that had been already cited in its First Office Action mailed on August 22, 2005. The Examiner's 35 USC 102 and 35 USC 103 based

rejections contained in the First Office Action mailed on August 22, 2005, were fully discussed and addressed in the interview with the Examiner on November 29, 2005, and in Applicant's resultant Response thereto dated January 21, 2006; the content of said interview is contained in our Response dated January 21, 2006, and is restated below for review. The copy of the aforesaid Japanese Patent [JP 02-074146 (Masaki)] mailed with the latest Office Action to the undersigned counsel contained only said Patent's Abstract in English, while the remainder of the detailed specification and claims were in Japanese. The undersigned counsel then procured a Certified English Translation (from Park Evaluations and Translations of New York City) of the entire subject Japanese Patent [JP 02-074146 (Masaki) [see Exhibit A attached hereto], so that the full specification and claims of said Japanese Patent, not just the Abstract, could be reviewed by both the undersigned counsel and the Examiner, for any possible 35 USC 103(a) grounds for rejection of any claims of the subject Patent application. The undersigned counsel, after thorough and careful review of the full English translation of the aforesaid Japanese Patent ("MASAKI"), including its claims (1) and (2) and Detailed Description of the Invention, clearly indicate that said claims require permanent magnetic elements on **both** rotors [see MASAKI part #'s 3 and 6], which the subject application specifically does not claim, by specific negative limitation language in our amended independent claim #'s 1 and 16 (see Applicant's Response to First Office Action dated January 21, 2006, and now being placed in better form herein). It is noted that **all** of the Examiner's 35 USC 103 claim rejections in the Final Office Action mailed on April 4, 2006, are based on combinations of prior art references with MASAKI at the core. Since MASAKI has claims permanent magnetic elements on **both** rotors, and since the issue of devices with magnets on both rotors was already addressed with the Examiner in the November 29, 2005 interview and

in applicant's related January 21, 2006 response, then applicant traverses Examiner's claim rejections based thereon and applicant further traverses Examiner's assertions that the grounds for any related rejections are "new". Applicant respectfully requests Examiner's reconsideration of his comments in its Final Office Action mailed on April 4, 2006, based on the full English Translation of the MASAKI Japanese Patent and the applicant's more detailed arguments below. Applicant has further amended independent claim #'s 1 and 16 to place the negative limitation of not having permanent magnetic elements on **both** rotors in a better form, based on comments by the Examiner in our interview dated November 29, 2005, combined with his comments in the recent Office Action mailed April 4, 2006.

**REVIEW AND RESTATEMENT OF SUBSTANCE OF INTERVIEW CONDUCTED
WITH EXAMINER ON NOVEMBER 29, 2005; PER 37 CFR §1.133(b) and MPEP
§713.04:**

A personal interview among Examiner Dang D. Le, applicant's patent counsel Steven J. Miller, Esq. and one Inventor Philip Corbin, III, was conducted on November 29, 2005, at the USPTO headquarters located in Alexandria, Virginia. The topic of discussion was the Examiner's Non-Final Office Action, and comments contained therein, mailed on August 22, 2005.

As it relates to the Examiner's 35 USC §112 rejections of claims 15 and 30, the Examiner wanted clarification of the term "the electroconductive materials' electrical circuit". In order to avoid confusion on these two dependent claims (15 and 30), and without disclaiming any part of

the invention, the applicant has decided to cancel these two aforesaid dependent claims.

As it relates to the Examiner's 35 USC §102(b) rejections asserting that the applicant's invention was anticipated by LAFFEY (US 5,158,279), WOOD (US 2,437,871) and LEHDE (US 2,807,734), the applicant clarified that its invention has permanent magnets on only one of the two rotary members claimed. The Examiner agreed that if the applicant clarified that the applicant's invention provided that permanent magnets were on only one of the two rotary members claimed; i.e. excluding permanent magnets from the other rotary member, then all of the Examiner's aforesaid cited prior art [LAFFEY (US 5,158,279), WOOD (US 2,437,871) and LEHDE (US 2,807,734)], would no longer anticipate the applicant's invention.

As it relates to the Examiner's 35 USC §103(a) rejections asserting that the applicant's invention was obvious to one skilled in the art at the time of the invention when considering the Examiner's cited 35 USC §102(b) prior art LEHDE (US 2,807,734), in combination with each of the following, respectively:

CRAMER (US 5,763,973); or DELANCEY (US 2,230,717); or FIELDS (US 6,041,571); or O'BRIEN (US 5,736,798); or ROUNDS (US 6,084,322); or FIELDS and KRASNOW (US 3,083,311);

the Examiner agreed that since the invention has been clarified to claim the use of permanent magnets on only one of the two rotary members claimed, and that therefore, the Examiners cited 35 USC 102(b) prior art no longer anticipates the invention [which included LEHDE], then it follows that all of the Examiner's 35 USC §103(a) rejections based on 'obviousness' combinations with the aforesaid cited 35 USC 102(b) prior art [LEHDE] are no longer valid, since now, any combination with LEHDE, would necessarily teach away from the applicant's

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invention.

Reference is made to the record Examiner's Interview Summary (Form PTOL-413) dated November 29, 2005, indicating agreement with respect to the claims.

IN THE CLAIMS: (Clean copy of claims – see attachment for marked-up copy)

Please cancel claims 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28 without prejudice or disclaimer.

Any Claims amended are without prejudice or disclaimer.

Please amend the following claims 1 and 16 to place in better form per Examiner comments last November 29, 2005 and with Examiner's comments in the Final Office Action mailed April 4, 2006, as follows: